Office Supreme Court, U. S.
FILED
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CHARLES ELMORE CROPLEY
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IN THE

SUPREME COURT OF THE UNITED STATES

No. 269

AILEEN E. MITCHELL, PETITIONER,

vs.

J. W. HAMPEL ET AL., RESPONDENT.

SUPPLEMENTAL BRIEF.

Whether partnership or individual debts rests upon character of transaction (Schall *v.* Camors, 251 U. S., 239).

Bankruptcy laws did not attempt by any of the provisions to deny a lienholder of any right or remedy. Contracts under which were pledged were valid and enforceable under the laws of New York (Hiscock *v.* Varick, 206 U. S., 28).

The test is whether debts or partnership are individual in character and depends on the transaction from which it arises (Reynolds *v.* N. Y. Trust Co., 188 Fed., 613).

sureties therein received the sole and primary consideration. Kindly read the citation to Cyc. given by petitioners on this point.

In executing the bond the parties were trying to comply with article 2443, shown on page 4, our brief, which required sureties and not joint principals. This statute is a part of the bond itself. J. H. P. Davis & Co., as such, were chosen depository, and not the individuals. The individuals were only liable in the event of a loss and failure of J. H. P. Davis & Co. to pay. All that the joint and several clause did was to give the obligee the right to sue severally (32 Cyc., 89). The individuals did not bind themselves jointly and severally as co-makers, but only as sureties; obligee presumed to know J. H. P. Davis & Co. was principal, it having received benefit of contract (32 Cyc., 39).

Contribution arises in case, as $108,000 was paid by other sureties and county's claim allowed in full, thereby amounting to indirect payment to sureties who made payment.

Respectfully submitted,

L. R. BRYAN.
E. B. COLGIN.

ADDENDA.—Please read Wiggins *v.* Blackshear, 86 Texas, 668, holding law recognizes no personality in a partnership other than that of the persons who compose it.